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Supreme Court rejects appeal over secret 9/11 detentions

From Bill Mears
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WASHINGTON (CNN) --The Supreme Court Monday allowed the government to keep secret information about hundreds of people rounded up under suspicion of terrorism in the months following the September 11, 2001 attacks.

The justices without comment refused to accept an appeal bought by the Center for National Security Studies, a Washington, D.C., think tank representing Arab-American groups and some civil rights activists.

Kate Martin, director of the Center for National Security Studies, said the organization was disappointed by the court's decision not to intervene. "The Justice Department is keeping the names secret to cover up its misconduct -- holding people incommunicado and without charges.

"The cover-up maintains the fiction that the government was going after terrorists when it instead was rounding up hundreds of innocent Arabs and Muslims," Martin said. "Without action by Congress or the public, the Justice Department will be free to repeat these abuses in the future."

Monday's ruling follows decisions by the Supreme Court to accept other cases concerning prisoner rights in the context of anti-terrorist efforts. In one case, the high court will listen to arguments about the rights of prisoners held overseas at a U.S. Navy base in Guantanamo Bay, Cuba. ([Full story](#))

Additionally, justices will consider whether so-called "enemy combatants" who are also U.S. citizens deserve to have their appeals heard by federal courts. In this case, an American suspect named Yasser Hamdi was captured on the battlefield in Afghanistan and is being held in secret military custody. ([Full story](#))

At issue in Monday's ruling was the government's refusal to release information on about 700 mostly Muslim- or Arab-Americans detained by federal authorities. Twenty-three media organizations, including CNN, filled a brief supporting the appeal, arguing the public deserves the right to scrutinize

government actions.

The Center for National Security Studies sued to learn names and other basic information about the detainees. The appeal raised constitutional questions under the First Amendment right to freedom of speech and freedom of the press, and legal questions under the federal Freedom of Information Act.

Most of the suspects were held by immigration authorities, and were investigated and questioned for possible terrorism connections. Nearly all were subsequently released, and some were eventually deported for various immigration violations.

"It is the responsibility of courts, and especially this court, to provide meaningful judicial review when the government invokes national security to justify unprecedented secrecy in exercising its awesome power to arrest and detain hundreds of people," lawyers for the organization argued in a court filing, according to The Associated Press.

"History shows that, in times of crisis and fear, executive officials are prone to overreact, especially in their treatment of minorities in their midst," the appeal said.

A federal appeals court agreed with the Department of Justice's assertion of executive authority.

The Bush administration has argued that releasing names and details of the arrests would give terrorists a window on the U.S. post-September 11 terror investigation.

After the ruling Attorney General John Ashcroft said: "Time and time again, the courts have upheld the careful steps the Justice Department and federal government have taken since the devastating attacks of September 11, 2001 to both investigate that atrocity and prevent terrorists from striking again.

"We are pleased the court let stand a decision that clearly outlined the danger of giving terrorists a virtual roadmap to our investigation that could have allowed them to chart a potentially deadly detour around our efforts."

An audit last year by the inspector general at the Justice Department found "significant problems" with the detentions, including allegations of physical abuse.

The report, released in June, found that many of the 762 illegal aliens were held until cleared by the FBI of any terrorism connections. That process sometimes took months despite a law requiring most aliens to be deported or released within 90 days, according to the AP.

A follow-up analysis in September said the Justice Department still has not adequately addressed how to separate these "special interest" detainees from aliens not suspected of terrorism ties, the AP reported.

The case announced Monday is Center for National Security Studies v. Dept. of Justice, case no. 03-0472.

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